



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

November 16, 1959

Mr. R. L. Lattimore
Criminal District Attorney
Hidalgo County
Edinburg, Texas

Opinion No. WW-727

Re: Legality of fiberglass mufflers manufactured to meet all requirements of law.

Dear Mr. Lattimore:

In your recent letter you have requested an opinion from this office with respect to the "legality of fiberglass mufflers" manufactured to meet all requirements of law. Section 134, Article 670d, Vernon's Civil Statutes, provides as follows:

"(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

"(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke".

Neither this statute nor has any other statute been found which prescribes the manner of construction of automobile mufflers, nor the substance from which they are to be made. The statute has been complied with if the muffler which is installed is "in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke", whether it be made of steel, aluminum, fiberglass or any other substance.

As to whether a particular vehicle is equipped with a muffler which is "in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke", cannot be answered by this office, but is a question of fact to be resolved by the trier of the facts. See Ex Parte Trafton, 271 S.W.2d 814, and Department of Public Safety vs. Buck, 256 S.W.2d 642.

The question of the length of time which a particular muffler will serve the purpose for which it was manufactured is of no concern. It is common knowledge that mufflers differ in the length of time they will serve their user - even mufflers made by the same manufacturer and of the same design and material.

Honorable R. L. Lattimore, Page 2. (WW-727)

The Legislature has not attempted to prescribe the quality of mufflers which must be used - only that they be in "good working order and in constant operation to prevent excessive or unusual noise and annoying smoke".

SUMMARY

Mufflers constructed of fiberglass comply with the mandates of Section 134, Article 670d, Vernon's Civil Statutes, so long as they are "in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke".

Very truly yours,

WILL WILSON
Attorney General of Texas

By: 

John L. Estes
Assistant Attorney General

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APPROVED:

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